

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.10007 of 2007

Dated:17.07.2007

Between:

Agarwal Foundaries, Bashirbad, Qutbullaper Mandal.

...Petitioner.

and

Central Power Distribution Company of A.P. Ltd. and others

...Respondents.

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ORDER:

The petitioner is an industry, undertaking manufacture of M.S. ingots and other allied products. It is extended with power supply under H.T.-I Category, with S.C.No.RRD 620. The premises were inspected on 16.04.1996 and certain incriminating points were noticed. Thereafter, a notice of provisional assessment was issued, pointing out that the cost of energy pilfered by the petitioner is Rs.12,04,483/-. The petitioner was required to pay half of the amount to avail the power supply. Thereafter, a show cause notice was issued, and ultimately, an order of final assessment was passed on 30.03.1998, confirming the demand made through the notice of provisional assessment. Aggrieved thereby, the petitioner preferred an appeal before the Chief General Manager, Ranga Reddy Zone, Hyderabad. The appeal was rejected on 18.04.2007. Hence, this Writ Petition.

Sri M.P.Chandramouli, learned counsel for the petitioner, submits that the appeal was presented way back in the year 2000, and notice of hearing was issued once in the year 2000, and thereafter, in

the year 2002, and except that, no notices of hearing were issued thereafter. He contends that the matter was taken up in the year 2007 and the appellate authority proceeded to decide it, without issuing any notice to the petitioner.

Learned Standing Counsel for respondents, on the other hand, submits that whenever notices of hearing were issued, the petitioner did not either turn up, or extended co-operation for disposal of the matter.

The respondent initiated proceedings against the petitioner, on the allegations of pilferage, that is tampering with the seals on meter. Findings of fact were no doubt recorded by the authority, who passed the order of final assessment. In the appeal, the petitioner urged several grounds. For one reason or the other, it was kept pending for seven years and it was only in April 2007 that the appeal was rejected. The appellate authority had undertaken extensive discussion. The record, however, discloses that the petitioner was not issued any notice of hearing, after the matter was adjourned in the year 2002. In a way, the very purpose of filing of the appeal was defeated. Unless the petitioner was given an opportunity to put forward its contention, the appeal cannot be said to have been decided effectively, or in accordance with law.

On this short ground, the Writ Petition is allowed and the matter is remanded to the appellate authority for fresh consideration and disposal, after issuing notice of hearing to the petitioner. There shall be no order as to costs.

Dt.17.07.2007

L.NARASIMHA REDDY, J

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GJ